THE HONOURABLE SHRI JUSTICE R.SUBHASH REDDY

WRIT PETITION No. 17155 OF 2007

Dated 11th September, 2007

Between:

Anantha Educational Society,
Kesavayanagunta, Tirupati,
Chittoor District and others.

…Petitioners

And

The Bar Council of India, represented by its
Secretary, 21, Rouse Avenue, Institutional Area,
New Delhi – 110 001 and others.

…Respondents.

ORDER:

In this writ petition, the petitioners have questioned the orders of rejection of approval of affiliation for starting the second petitioner-Law College, by the Bar Council of India in proceedings BCI:D: 907/2007(LE:Mtg.), dated 30.7.2007.

The first petitioner is a society registered under the Societies Registration Act. It owns a building bearing D.No.19-12/1-12, Plot No.12, Kesavayanagunta, Tirupati, Chittoor District in Andhra Pradesh. The said building, which was donated in favour of the first petitioner-society, comprises of three floors with a carpet area of 5502 sq. feet. In response to the notification issued by the

Andhra Pradesh State Council of Higher Education inviting applications for starting private unaided law colleges in the State of Andhra Pradesh, initially, the first petitioner-society had applied for permission to start a law college in the name of 'Anantha College of Law' in the building referred above to the A.P. State Council of Higher Education during the academic year 2006-07 and the same was granted. But, however, as no approval was granted during that period, it had applied for renewal permission for the academic year 2007-08 from the A.P. State Council of Higher Education and the same was granted by proceedings dated 11.7.2007. When the petitioner had applied for approval of affiliation to the first respondent – Bar Council of India, as required under the provisions of the Rules framed under the Advocates Act, 1961, the Bar Council of India constituted an inspection team to inspect the proposed College of Law of the first petitioner-society and such a Committee constituted for the said purpose consisting of the Vice-Chairman and a Member of the Bar Council of India made inspection on 28.1.2007 and prepared a report and submitted to the Bar Council of India. Subsequently, the Bar Council of India called for comments and explanation on the said report from the Registrar of the affiliated University i.e. S.V. University, Tirupathi. The said University also sent report subsequently by making separate inspection. After receipt of the report submitted by the Committee constituted by the Bar Council of India and the comments and explanation offered by the Registrar of the University, the Bar Council of India on consideration of the recommendation of the Legal Education Committee made at its meeting held on 29th and 30th June, 2007, the report of the inspection team and the number of law colleges already existing in the State of Andhra Pradesh in Chittoor District and in Tirupati town, has rejected the approval of affiliation for starting the second petitioner-college vide impugned proceedings dated 30.7.2007 on the ground that the proposed Law College is in the residential premises.

In the counter affidavit filed on behalf of the first respondent, it is stated that for the purpose of maintaining standards in legal education, Legal Education Committee is constituted as contemplated under Section 10(2)(b) of the Advocates Act, 1961 and such Committee has considered the recommendations and the report submitted by the inspection team constituted by the Bard Council of India and it has come to conclusion that the proposals of the first petitioner cannot be accepted for the reason that the location of the building is in the residential premises. Further, it is the case of the respondents that taking into account the existing law colleges and the overall situation, the inspection team constituted by the Bar Council of India has opined that it will not

be proper to permit the petitioners to start the law college in the residential premises. Further, with reference to the comments and explanation offered by the Registrar of the University it is stated that as it was found by the first respondent that the comments of the fourth respondent are exaggerated account of facts which are contrary to the ground realities, they were rejected while passing the impugned order. Precisely, it is the case of the first respondent that as the petitioners did not satisfy the building requirement as per the norms notified by the Bar Council of India and further in view of the report of the inspection team constituted by the Bar Council of India, petitioners are not entitled for approval for starting unaided College of Law.

Heard Shri D.Prakash Reddy, learned Senior Counsel appearing on behalf of the petitioners and Smt. S.Nanda, learned Standing Counsel for Bar Council of India, Shri C.Sudesh Anand, learned Standing Counsel for A.P.State Council of Higher Education and Shri K.Jaganmohan Reddy, learned Standing Counsel for S.V.University.

Shri D.Prakash Reddy, learned Senior Counsel submitted that though the first petitioner-society has developed building and the other required infrastructure as per the rules and guidelines framed by the Bar Council of India, but, without considering the proposals of the society in proper perspective, the impugned order is passed. It is further submitted that as per the norms notified by the Bar Council of India any individual institution which proposes to commence private law college should have minimum of 4000 sq. ft of building accommodation in the beginning to make an application for starting the first year course of Law and should acquire land of at least 2 acres for the proposed new building for permanent purposes. It is the case of the petitioners that the existing building bearing D.No.19-12/1-12 is not the residential premises and is also not in the residential area and the same is factually incorrect as it is in the midst of several schools, colleges and also Sanskrit University, Agricultural University etc.. It is also their case that there is a need for starting Law College in the locality as the existing Law Colleges are not able to meet the requirements of graduate pass-outs in the area seeking entry into Law Course. Learned Senior counsel submitted that on each and every aspect, the report of the Registrar, S.V.University, which has given affiliation, depicts that the petitioner-society satisfied all the conditions necessary for establishment of Law College and even with regard to the need, the said report categorically stated that the said area needs more law colleges in view of the existence of several degree colleges and junior colleges as the present law colleges are unable to meet the demand of pass-outs from the said colleges. But, the said report was brushed aside without any basis by simply saying that

the same are exaggerated account of facts and the impugned order is passed solely relying on the recommendations of the Legal Education Committee and the report of the inspection team without considering the matter independently. Therefore, the impugned order warrants interference by this court.

On the other hand, it is submitted by Smt.S.Nanda, learned Standing Counsel for the first respondent-Bar Council of India that for the purpose of maintaining standards in legal education, Legal Education Committee is constituted as contemplated under Section 10(2)(b) of the Advocates Act, 1961 and such Committee has considered the recommendations and the report submitted by the inspection team constituted by the Bard Council of India and it has come to conclusion that the proposals of the first petitioner cannot be accepted for the reason that the location of the building is in the residential premises. Further, it is the case of the respondents that taking into account the existing law colleges and the overall situation, the inspection team constituted by the Bar Council of India has opined that it will not be proper to permit the petitioners to start the law college in the residential premises. Therefore, no interference need be made with the impugned order in this writ petition, as the same is passed basing on the inspection report of the inspection team constituted by the Bar Council of India, and as the comments and explanation of the Registrar are exaggerated, they were not taken into consideration. She further contended that the Bar Council is the competent authority for grant of approval of affiliation obtained by law colleges and it rejected the approval to the petitioner-society after considering all the parameters. In support of her contention, she relied on the decision of the Honourable Supreme Court in **State of Maharashtra v. Manubhai Pragaji Vashi**[1] and a decision of a Division Bench of this Court in **A.V.Educational Society v. Government of Andhra Pradesh**[2]**.**

The Rules on legal education have been amended from time to time and are framed in the shape of regulations by the Bar Council of India. However, after several amendments, consolidated rules on Standards of Legal Education and Recognition of Degrees in Law for admission as advocates were framed in Part-IV of the Bar Council of India Rules in exercise of powers under Sections 7(h) & (i), 24(1)©(iii) and (iiia), and 49(1)(af), (ag) and (d) of the Advocates Act, 1961. The procedure for approval of affiliation of a new college is laid down in Rule 18 of Section-A in Part-IV of the Bar Council of India Rules, which reads:

> "18. The Bar Council of India shall cause a law college affiliated to a University to be inspected by a Committee to be appointed by it for the purpose when:

(a) An application for approval of affiliation of a new college is received by it or it suo moto decides in order to ensure that the standards of Legal Education laid down by it are being complied with.

(b) The application for approval of affiliation of a new college shall be addressed to the Secretary, Bar Council of India, and shall be sent only through the Registrar of the university concerned with his recommendations and the application be accompanied by an inspection fee of Rs.50,000/-.

(c) The College and/or the University concerned shall furnish all the information to the Committee of inspection and the Bar Council of India as and when required, and shall cooperate with them in every possible manner in the conduct of inspection.

(d) (1) The Inspection team before recommending approval of affiliation to a new Law College should inter alia make a specific recommendation as to why such a law college is required at the same place/area where the law college is proposed to be started keeping in view the total number of existing Law Colleges in the place/area in particular and the state in general.

(2) The inspection team will also keep in view the approximate population of the area where the College is proposed to be started, number of Law Colleges along with the total number of students therein, number of degree colleges as well as junior colleges in the area in particular and the State in general.

(e) If an unfavourable report is received, the Secretary of the Bar Council of India shall cause a copy of the same to be sent to the Registrar of the University concerned for his comments and explanations, if any. Such comments and explanations on the report shall be sent by the Registrar of the University within a period of six weeks from the date of the receipt of the communication.

(f) The Secretary of the Bar Council of India shall cause the report and the comments/explanation of Registrar of the University concerned to be placed before the next meeting of the Legal Education Committee of the Bar Council of India.

(g) If the Legal Education Committee is satisfied that the standards of legal education and/or the rules for affiliation or continuance of affiliation provided for in these rules by the Bar Council of India are not complied with and/or that the courses of study, teaching and/or examination are not such as to secure to persons undergoing legal education, the knowledge and training requisite for the competent practice of law, the Legal Education Committee shall recommend to the Bar Council of India the approval/disapproval of affiliation or continuance of affiliation as the case may be.

The Legal Education Committee may also recommend that certain directions be given for improvements to be carried out within the period to be specified.

(h) This recommendation of the Legal Education Committee along with the accompanying papers shall be placed before the Bar Council of India for its decision. In case the Bar Council of India disagrees with or modifies the recommendation of the Legal Education Committee, it shall communicate its views to the Legal Education Committee for its consideration before arriving at a final decision in the matter.

(i) If the Council is of the opinion that affiliation of a College whose affiliation has already been approved, be disapproved, the Council shall give notice of the proposed action to the Principal of the College and the Registrar of the University to show cause within 30 days of the receipt of the notice and the Council shall take into

consideration the reply received before making final orders.

(j) The decision of the Bar Council of India shall be communicated to the Registrar of the Unviersity.

It shall be effective from the commencement of the next academic year following the date on which it is received by the Registrar of the University.

(k) university Law Department/Constituent and affiliated Law Colleges to which the Bar Council of India has already accorded approval of affiliation shall submit to the Bar Council of India an annucal return in the form prescribed (as per schedule IV) by the Bar Council of India at the end of its annual academic session failing which the approval of affiliation accorded shall be liable to be withdrawn/cancelled.

(1) After refusal to grant permission to start a law college or to extend approval of affiliation to any existing law college, no fresh application for the same purpose shall be entertained until the expiry of the next academic session or one calendar year whichever is later from the date of such refusal by the Bar Council of India.

(2) Every law college applying for approval of affiliation shall obtain permission/no objection for establishment of law college from Govt. or Higher Education Department of the State, if the same is a requirement under the prevailing law or any order in the State."

In this case, on the application made by the petitioner, there was an affiliation for the proposed Law College by the University i.e. S.V. University – the fourth respondent herein. Similarly, the A.P. State Council of Higher Education also issued orders initially for the academic year 2006-07 permitting the petitioner-society to start unaided College of Law in the name of Anantha College of Law and as the proposals were not approved by the competent authority i.e. the Bar Council of India, by proceedings dated 11.7.2007, renewal permission was also granted by the Andhra Pradesh State Council of Higher Education for the academic year 2007-08. Pursuant to the application of the petitioner, a Committee was constituted by the Bar Council of India. The inspection team constituted by the Bar Council of India has made inspection on 28.1.2007. The Inspection team while noticing the infrastructure developed by the petitioner with regard to building and the land which was acquired to construct a pucca building for future needs and the Library developed by the petitioners stated that considering the overall situation, it may not be proper to permit the management to start the college in the residential premises. But, however, as required under Rule 18(e) of the Rules framed under the Advocates Act, 1961, after receipt of the report from the inspection team, the Bar Council of India has addressed letter dated 9.5.2007 to the Registrar of S.V. University inviting comments and explanation. In the report submitted by the Registrar expressing their comments and explanation pursuant to the letter addressed by the Bar Council of India, there is a specific reference to the building particulars provided by the petitioner

for the proposed law college and the need of establishing the private unaided Law College. A few paragraphs from the said report, which are relevant for the purpose of disposal of the writ petition, read thus:

> " The members of Inspection Committee appointed by the Bar Council of India in their Inspection Report dated 28-01-2007 regarding Anantha College of Law, Tirupati, AP had clerly expressed their satisfaction regarding Infrastructural facilities, Land, Faculty and Library (Books, Journals, reading space, furniture, digitalization, library staff and their qualifications). The members of Inspection Committee were very much satisfied with the fulfillment of the requirements laid down by the BCI for starting a law college in all aspects, but expressed dissatisfaction only in case of premises, stating that the college building is located in the residential area. In fact, the building of the college is not a residential premises and it is not located in the residential area.
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> The total, existing, carpet area is 5502 sft, while the actual requirement stipulated by the Andhra Pradesh State Council of Higher Education in its regulations is only 4000 sft. in the first year of the establishment of the law college. AP State Council of Higher Education has stipulated in its guidelines (page 4 point (1)) to provide total carpet area of 11500 sft only for running a law college. As per the guidelines prescribed by the A.P. State Council of Higher Education the proposed new private law college has to provide 4000 sft of carpet area in the first year of starting of law college and remaining 7500 sft of carpet area should be raised in the next year of its establishment. Anantha College of Law has provided a permanent building of 5502 sft carpet area in the first year of its establishment, which is beyond the requirement of AP State Council of Higher Education. Hence, the building provided by Anantha Educational Society is more than sufficient to start a private law college with 2 sections of 3 years LL.B with an intake of 80 each and 1 section of 5 years LL.B., with an intake of 80.
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> Anantha Educational Society owns a college building with a carpet area of 5502 sft, 2.0 acres of land and got them registered in the name of their society even before starting the proposed law college. This college has provided full-fledged Air Conditioned Reference and Research Library with an objective to create better academic climate for the prospective law students, advocates, judicial officers and legal researchers. It is an unique feature to mention tht Anantha College of Law has provided Air Conditioned Digital Library with laser print facility.
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> For the past 20 years, there are only two private law colleges in Tirupati. During this period there is a tremendous growth in population to the extent of 5,00,000 and widespread residential area. There is a considerable increase in the number of degree colleges, and junior colleges within the jurisdiction of S.V.University, Tirupati. The total number of Degree colleges in A.P. is 1,540 with a total intake of 12,85,003 and the total number of Junior colleges in A.P. is 3683 with a total intake of 17,50,000. The total number of Junior colleges in Chittoor District are 174 and the total number of Degree colleges in Chittoor District are 254. Since there is a considerable number of degree colleges and junior colleges in the state of Andhra Pradesh, it is obvious that there is need for the establishment of new private law colleges in the state of Andhra Pradesh who can offer excellent legal education. Although, Tirupati has been a city for many years in all matters, the Andhra Pradesh State Government has recognized it officially very recently. Effective from March 2, 2007. Tirupati city is a municipal corporation not a municipality. Thus, Tirupati is a municipal corporation in Andhra Pradesh."

Though, in the counter-affidavit filed by the Bar Council of India, it is stated that

the report sent by the Registrar, S.V.University is exaggerated, but, however, with regard to location of the building, it is stated in the report of the Registrar that it is very close to S.V.University, Sri Padmavathi Mahila Viswa Vidyalayam (Women's University), Agricultural University, Sanskrit University, All India Radio Complex and several Government offices including Indian Passport Office. It is further stated that the proposed Anantha College of Law is surrounded by 20 mighty educational institutions and the Anantha College of Law has 80 feet road on Northern side and 60 feet road on Western side. Though in the impugned proceedings and in the operative portion of the report of the Inspection team constituted by the Bar Council of India, it is stated that premises are residential premises, but, however, no reasons have been recorded for such a finding. On the other hand, detailed reasons have been recorded in the report of the Registrar, S.V.University, which is the affiliating University and has the overall picture of the area, for coming to the conclusion that the area where the petitioner-College is sought to be established is neither a residential area nor the residential premises. Even with regard to the need for establishment of the college, it has stated that during the period of 20 years, there are only two private law colleges in Tirupati whereas there is tremendous growth in population and considerable increase in the number of degree colleges and junior colleges within the jurisdiction of S.V.University, Tirupathi and therefore, there is a need for the establishment of new private law colleges. The report of the Registrar, S.V.University, given pursuant to the letter dated 9.5.2007 issued by the Bar Council of India categorically and in detail discussed the every requirement for the establishment and fulfillment by the petitioner-society and on consideration of the factual information and the need opined that Anantha College of Law, Tirupati, deserves approval of affiliation to start the law college at Tirupati. Whereas, the Inspection team constituted by the Bar Council of India, simply stated the facilities provided by the Ananatha College of Law and finally found that it will not be proper to permit the management to start the law college in residential premises. In fact, there is no reason at all stated by the inspection team for coming to such a conclusion. The Bar Council of India stating to be on consideration of the number of law colleges already existing in the State of Andhra Pradesh and by simply basing on the report of the Inspection Team to the effect that it will not be proper to permit the management to start the law college in residential premises and by further stating that the report of the inspection committee represent the true state of affairs, has rejected the approval. In fact, there is no appraisal of the matter by the Bar Council of India independently and it has simply, relying on the report of its Inspection team, rejected the approval. There is no comparative study of the

reports of the Inspection team vis-à-vis the Registrar, S.V. University, as to the basis for the reports by the Bar Council of India before rejecting the approval, as a result of which, the report of the Registrar, S.V.University became nugatory and purposeless.

In **State of Maharashtra v. Manubhai Pragaji Vashi (1 supra),** relied on by the learned Standing Counsel for the Bar Council of India, the Honourable Supreme Court held thus:

> "……The need for a continuing and well organized legal education, is absolutely essential reckoning the new trends in the world order, to meet the ever growing challenges. The legal education should be able to meet the ever growing demands of the society and should be thoroughly equipped to cater to the complexities of the different situations. Specialisation in different branches of the law is necessary. The requirement is of such a great dimension that sizeable or vast number of dedicated persons should be properly training in different branches of law, every year by providing or rendering competent and proper legal education. This is possible only if adequate number of law colleges with proper infrastructure including expertise law teachers and staff are established to deal with the situation in an appropriate manner. It cannot admit of doubt that, of late there is a fall in the standard of legal education. The area of 'deficiency' should be located and correctives should be effected with the cooperation of competent persons before the matter gets beyond control. Needless to say that reputed and competent academics should be taken into confidence and their services availed of, to set right matters."

In **A.V.Educational Society v. Government of Andhra Pradesh (2 supra)** on which also reliance is placed by the learned Standing Counsel, a Division Bench of this Court held that the Bar Council is competent to prescribe prior approval of affiliation obtained by law colleges in order to recognize the degree in law awarded by them as valid for enrolment as an advocate.

I am also of the opinion that there cannot be any deviation from the propositions laid down in the decisions relied on by the learned Standing Counsel for the first respondent – Bar Council of India to the effect that there should be a well organized legal education to meet the ever growing demands of the society and should be thoroughly equipped to cater to the complexities of the different situations and there cannot be any compromise in the standard of legal education and that the Bar Council of India is the competent authority to prescribe prior approval of affiliation obtained by law colleges. But, each case has to be examined having regard to the infrastructure provided and the said decisions are not of any help to the respondents, as the Bar Council of India has not considered the application of the petitioner-society in proper perspective.

Therefore, for the reasons stated supra, I am of the view that it is a case where the Bar Council of India has not considered the proposals of the petitioner to start the college in proper perspective and therefore, the order impugned herein deserves to be set aside.

Accordingly, the impugned order is set aside and the writ petition is allowed. There shall be a direction to the Bar Council of India to consider the matter afresh taking into consideration the comments and explanation offered by the Registrar of the S.V. University as required under Rule 18 of the Bar Council Rules in Chapter IV and any other material on this aspect and take decision accordingly as expeditiously as possible and communicate the same to the petitioner. It is made clear that, if necessary, it is open for the respondents to make further inspections.

There shall be no order as to costs.

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11--9—2007 **R.SUBHASH REDDY, J.**

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[1] AIR 1996 SC 1

[2] 2002 (3) ALD 716 (DB)